

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JESSIE JAMES,

Plaintiff,

vs.

MIKE ADDISON, et al.,

Defendants.

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NO. CIV-10-106-D

ORDER

Before the Court is the Report and Recommendation [Doc. No. 8] of Magistrate Judge Robert E. Bacharach, to whom this matter was referred for initial proceedings in accordance with 28 U.S.C. §636(b)(1)(B). In the Report and Recommendation, the Magistrate Judge recommends that Plaintiff's motion to proceed *in forma pauperis* be denied. Plaintiff has timely objected, and the matter is reviewed *de novo*.

Plaintiff, an inmate at the Joseph Harp Correctional Center in Lexington, Oklahoma who appears *pro se*, brought this action pursuant to 42 U.S.C. §1983. He seeks money damages because the defendants, including correctional officers, have refused to "acknowledge wrongdoing" in connection with their conduct toward Plaintiff; he also alleges the correctional officers used a "taser" to subdue him, causing him pain.

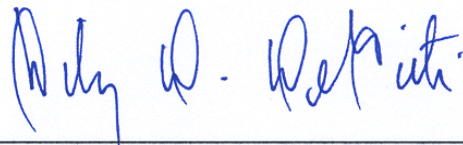
As the Magistrate Judge pointed out in the Report and Recommendation, the records of this Court reflect that Plaintiff has previously filed four lawsuits which were dismissed on grounds that they were frivolous, malicious, or failed to state a claim upon which relief could be granted. Pursuant to 28 U. S. C. § 1915(g), a prisoner cannot proceed *in forma pauperis* if he has had three or more prior lawsuits dismissed on those grounds. Accordingly, the Magistrate Judge

recommended that Plaintiff be required to pay the full filing fee within 21 days, as required by Local Civil Rule 3.3(e).

In response to the Report and Recommendation, Plaintiff submitted a letter [Doc. No. 9], which the Court has construed as an objection to the Report and Recommendation. However, Plaintiff's objection does not respond to the recommendation that he be required to pay the filing fee, nor does he contest the fact that his previous lawsuits have been dismissed pursuant to 28 U. S. C. § 1915(g). He repeats several allegations, and references the manner in which inmate financial accounts are maintained.

The Court concludes that, as explained in the Report and Recommendation, Plaintiff is not eligible for *in forma pauperis* status. The Report and Recommendation [Doc. No. 8] is adopted as though fully set forth herein. Plaintiff's motion to proceed *in forma pauperis* [Doc. No. 2] is denied. Plaintiff is directed to pay the full filing fee of \$350.00 within 21 days after the date of this Order, as required by Local Civil Rule 3.3(e). Plaintiff is cautioned that his failure to do so will result in the dismissal of this action without prejudice. *See* Local Civil Rule 3.3(e).

IT IS SO ORDERED this 5th day of April, 2010.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE